THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27700 of 2005

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Dated:28.12.2005

Between:

Tiffins Barytes, Asbestos and Paints limited., 6B, Kences Towers,

North Usman Road, T. nagar, Chennai-17, rep by Agent A. Raja

Gopal S/o Sanjeevayya R/o Dr. No. 6/69, G. Rama Rao Street,
Cuddapah, Cuddapah District

..... PETITIONER

AND

The Director of Mines and Geology, B.r.K.R. Bhavan, Secretariat

Road, Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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ORDER:

The petitioner is a Company. It obtained a mining lease for Barytes (a major mineral) in Vemula Mandal of Kadapa District in accordance with the Mines and Minerals (Development and Regulation Act) 1957 and the Mineral Concession Rules, 1960 (for short 'the Rules'). It appears, the second respondent herein issued a demand notice dated 21.07.2001 calling upon the petitioner to pay a sum of Rs.2,17,02,755/- towards royalty and penalty purportedly based on a report of the Regional Vigilance & Enforcement Officer, Tirupathi. Aggrieved by the same, the petitioner filed a writ petition, being W.P.No.6673 of 2005. The same was disposed of by this Court giving liberty to the petitioner to file a revision petition before the Central Government. The petitioner filed a revision petition, and the same is pending on admissibility. In the meanwhile, the petitioner made a representation on 26.08.2005 to the first respondent requesting to issue dispatch permits without insisting upon the payment of penalty of Rs.2.17 crores demanded by the second respondent. By impugned communication dated 24.11.2005, the first respondent informed the petitioner that in

the absence of any stay orders granted by the Central Government, the request of the petitioner cannot be considered until the amount of Rs.2.17 crores is paid.

The learned Counsel for the petitioner, Sri P.Rajasekhar, vehemently contends that the demand raised by the second respondent is without jurisdiction and illegal. Secondly, he would urge that if the demand raised by the second respondent is not paid by the lessee, the same cannot be a ground to deny dispatch permits, and that there is no power vested in the first respondent to insist upon the payment of the royalty and penalty thereon. The learned Counsel, however, does not dispute that the revision petition filed by the petitioner-Company is still pending before the Central Government, and that the petitioner did not obtain any orders of stay.

The petitioner has not placed before this Court a copy of the notice bearing No.1597/VG/2001, dated 21.07.2001, to know the nature of the levy, which was demanded to be paid by it. Going by the language in paragraph No.3 of the affidavit, it is reasonable to infer that the petitioner failed to pay the Mineral revenue to the State, and therefore, based on the report of the Vigilance Cell, penalty was imposed and a demand notice was issued. Be that as it is, as the petitioner is dealing with a major mineral, the petitioner rightly filed a revision petition before the Central Government, presumably, under Rule 54 of the Rules. Though the second respondent issued a demand notice on 21.07.2001, the petitioner filed a revision petition only in 2005, but did not obtain any orders of stay. There is not even an averment in the affidavit accompanying the writ petition that the petitioner filed such application for stay. Therefore, the first respondent was right in refusing the request of the petitioner for dispatch of permits in the absence of any orders staying the collection of royalty and penalty thereon. Even now, it is open to the petitioner to obtain appropriate orders from the Government of India in this regard. If the first respondent denies dispatch of permits on the ground that the petitioner-Company failed to pay the mineral revenue, there cannot be any infirmity in the same. The discretion of this Court under Article 226 of the Constitution of India cannot be exercised in favour of a person who committed default in payment of mineral revenue.

The writ petition is misconceived, and the same is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

28.12.2005

vs